



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155  
<http://www.blm.gov>



IN REPLY REFER TO:

3590

UTU-0122693

~~UTU-0115850~~

(UT-923)

JUN 10 2004

CERTIFIED MAIL--Return Receipt Requested  
Certification No.

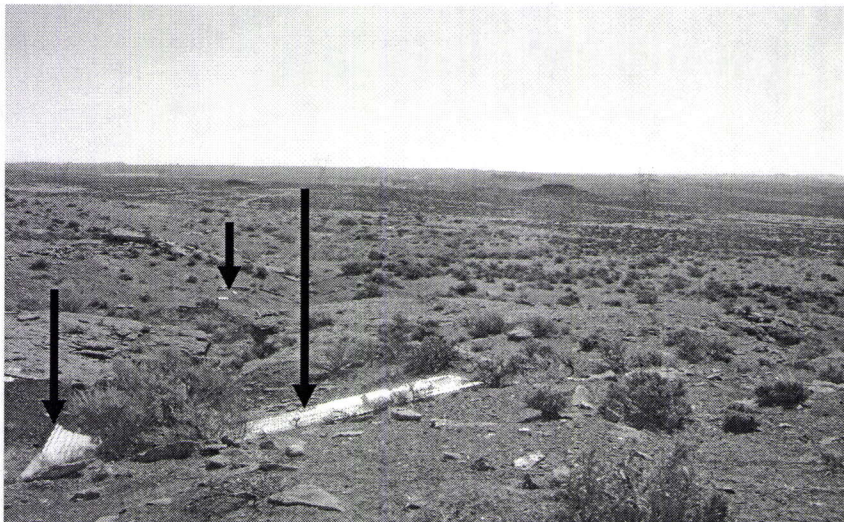
Ziegler Chemical and Mineral Corporation  
Mr. Stan Wagner  
Star Route  
Vernal, Utah 84078

Re: Mining Plan for Federal Gilsonite Lease UTU-0122693

### NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of non-compliance to Ziegler Chemical and Mineral Corporation for failure to comply with the approved mining plan on Federal Gilsonite Lease UTU-0122693 at the Cowboy-Bandana 1 and 2 mines.

On March 31, 2004 BLM inspected Federal Gilsonite Lease UTU-0122693. BLM found trash

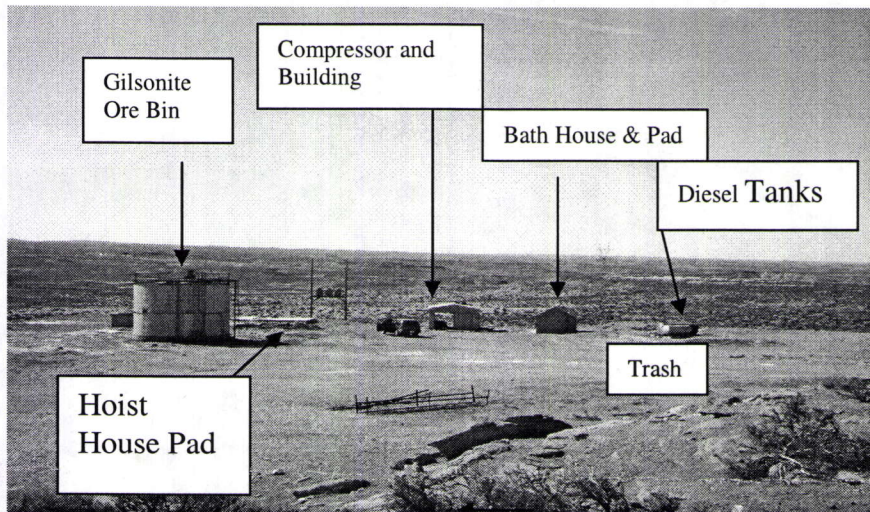


located all over the area at the Cowboy-Bandana number 1 mine site. The hoist house has been removed and there are pieces of corrugated metal scattered over a large area surrounding the mining area. There are several barrels, some of which appear to be empty. There is a light charging station, hoses, foam rubber and other associated trash.

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DIV. OF OIL, GAS & MINING



The existing facilities that remain on the mining site for the number 1 shaft are as follows. The hoist house pad, compressor house and pad, bath house, tank and pad, 2 diesel tanks, potable water tank, gilsonite ore bin, power lines and poles and other miscellaneous items.

**Cowboy-Bandana #1 mine site as of 31 March 2004**

This lease area is in noncompliance with the terms and conditions of the lease and the approved mining plan on page 6 which states, "All garbage and solid wastes will be placed in 55 gallon drums, except for waste rock and incidental earth products, and will be hauled to the company's garbage dump now existing at Little Bonanza."

#### Requirements to Correct the Noncompliance:

BLM requires that all trash including barrels be removed from the lease within 30 days from the receipt of this letter.

The gilsonite ore bin, concrete pad, generator, generator building, diesel tanks, potable water tank, bath house and tank, head frame footings, shaft collar, and associated roads do not have to be removed at this time. BLM requires within 30 days of receipt of this letter that Ziegler provide a reclamation schedule for the removal of the above structures, re-contouring the area, and seeding. BLM also requires within 60 days from receipt of this letter that a plan to seal the shafts at the number 1 and 2 shaft sites. Zeigler can contact BLM to discuss this issue.

#### Failure to comply with the Noncompliance:

Failure to comply with this notice of noncompliance may result in a legal proceedings to cancel the lease and as per 43 CFR 3598.4(a) and retain the lease bond.

#### Appeal Rights

You have 30 calendar days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed (see enc. 3) Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by

the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

Sincerely,

**James F. Kohler**

James F. Kohler  
Chief, Solid Minerals Branch

Enclosure  
Form 1842-1

cc: VFO

Paul Baker, Utah Division of Oil, Gas and Mining, P.O. Box 145801, Salt Lake City, Utah 84114-5801 w/o enc.

Mr. Gordon Ziegler, Ziegler Mineral and Chemical Corp, 366 North Broadway, Suite 210, Jerico, New York 11753